

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BEN STUCKEY, III,

Plaintiff,

vs.

ROGER MULCH  
and UNKNOWN PARTY,

Defendants.

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Case No. 12-cv-1284-MJR

**MEMORANDUM AND ORDER**

REAGAN, District Judge:

On January 23, 2013, Plaintiff's complaint (Doc. 1) was dismissed for failure to state a claim upon which relief may be granted (Doc. 9). Plaintiff was ordered to file a First Amended Complaint no later than February 27, 2013, if he wished to proceed on his deliberate indifference claim in Count 1. Plaintiff was clearly warned in that Order that failure to do so would result in dismissal of this case in its entirety and that Plaintiff would incur a strike.

The date to file his First Amended Complaint has passed, and Plaintiff has failed to do so. As a result, this action is **DISMISSED** with prejudice, for failure to state a claim upon which relief may be granted. Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, thus the filing fee of \$350 remains due and payable. See 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). This dismissal shall count as one of Plaintiff's three allotted "strikes" under the provisions of 28 U.S.C. § 1915(g). All pending motions are **DENIED** as moot. The Clerk's Office is **DIRECTED** to close this case.

**IT IS SO ORDERED.**

**DATED: March 8, 2013**

s/ MICHAEL J. REAGAN  
United States District Judge